

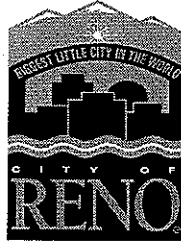
RENO CITY ATTORNEY'S OFFICE

JOHN J. KADLIC

City Attorney

TRACY L. CHASE
Chief Civil Deputy

Civil Division Deputies
ROBERT F. BONY
JACK D. CAMPBELL
GABRIELLE J. CARR
DONALD L. CHRISTENSEN
MARILYN CRAIG
SUSAN BALL ROTHE
JONATHAN SHIPMAN
CREIG SKAU



DANIEL WONG
Chief Criminal Deputy

Criminal Division Deputies
JILL E. DRAKE
C. HAZLETT-STEVENS
ALISON M. ORMAAS
PAMELA G. ROBERTS
BRIAN M. SOOUDI

DUI Administrative Specialist
CORINNE D. FRIEDMAN

Victim Advocate
SUZANNE RAMOS

June 21, 2012

Brian Duggan
Reno Gazette Journal
PO Box 22000
Reno NV 89520

Re: Public Records Request regarding Fact-Finder's Report

Dear Mr. Duggan:

You have requested a copy of the fact-finder's report issued in the spring of 2011 with respect to the fact-finding procedure which involved the City of Reno and IAFF Local 731. The City must deny your request on the ground that the report is not a public record and/or must be considered confidential pursuant to the following legal authority.

The purpose of NRS Chapter 288 is to provide the framework within which local government employers and employee organizations may bargain collectively and to open lines of communication, both formal and informal. *Washoe County Teachers Assoc. v. Washoe County School District*, Item # 54 (EMRB Case No. A1-045295 5/21/76). Fact-finding is a process described in NRS 288.200 et seq. and is considered to be part of the collective bargaining process. NRS 288.033, 288.270. Fact-finding may be considered to be an extension of the negotiating process under which the parties are required to abide by certain statutory provisions which restrict communications by the parties because of the potential of being required to answer to a prohibited practice complaint under NRS 288.270.

Any meeting or investigation conducted by a fact-finder is not subject to any provision of NRS which requires a meeting to be open or public. NRS 288.220. Unless a public meeting is held to discuss the fact-finder's report in accordance with NRS 288.200, it appears that the report does not become a public record and/or must remain as confidential as any negotiations which preceded its issuance. No public meeting was held to discuss the fact-finder's report because the parties reached an agreement on the terms of a successor collective bargaining agreement. Thus the report either did not become a public record or must remain confidential.

Brian Duggan
Reno Gazette Journal
June 21, 2012
Page 2

In addition to the foregoing considerations, the Nevada Supreme Court recognized in *Donrey of Nevada v. Bradshaw*, 106 Nev. 630, 798 P.2d 144 (1990), that any limitation on the general disclosure requirements of NRS 239.010 must be based upon a balancing or weighing of the interests of non-disclosure against the general policy in favor of open government. The balancing of those respective interests justifies the decision not to release the fact-finder's report.

In addition to the foregoing considerations, it appears that the deliberative process or executive privilege provides protection of the fact-finder's report from disclosure. To qualify as part of the deliberative process, the materials requested must consist of opinions, recommendations or advice about agency policies. *DR Partners v. Board of County Commissioners*, 116 Nev. 616, 6 P.3d 465 (2000). The fact-finder's report falls within this description.

In view of the foregoing, the City of Reno must deny your request.

Sincerely,



Donald L. Christensen
Deputy City Attorney

DLC:trs
cc: Renee Rungis, Human Resource Director